

Serial No.: 10/674,428
Atty. Docket No.: P69160US0

REMARKS

This Amendment is being filed concurrently with a Request for Continued Examination (RCE).

The Final Office Action mailed October 31, 2005, has been carefully reviewed and Applicants note with appreciation the identification of allowable subject matter.

By this Amendment, claims 1, 10 and 11 have been amended and new claims 18-20 have been added. Accordingly, claims 1-20 are pending in the application. Claims 1 and 10 are independent. In view of the amendments and the following remarks, favorable consideration and allowance of this application is respectfully requested.

In the Final Action, the Examiner rejected claims 1 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,589,221 to Olsen et al. ("the '221 patent") and also rejected claims 1 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,780,172 to Olsen et al. ("the '172 patent").

In that the present invention is patentably distinct from the '221 patent and the '172 patent, Applicants have filed

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the RCE provided herewith in order to clarify the presently claimed invention.

As set forth in amended claims 1 and 10, the present invention is directed to a collecting bag for human body wastes having a bag member formed by first and second film blanks and a longitudinally extending discharge portion that extends between two end sections of the film blanks to a distal end. The second film blank is longer than the first film blank, with the additional length thereof forming an extension that extends beyond a distal edge of the first film blank, with a discharge opening being formed between the extension and the distal edge of the first film blank. A first plate member *made of a relatively stiff material lacking in suppleness in the thickness direction* is positioned on the first film blank adjacent the first film blank distal edge, and a second plate member also *made of a relatively stiff material lacking in suppleness in the thickness direction* is positioned on the extension of the second film blank adjacent the discharge opening. When folding the discharge portion, the distal edge of the first plate member acts as a pivot, and a *stretching effect* is created on the second film blank to effectively seal the discharge opening with *substantially no deformation of the plate members in the*

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thickness direction. This is patentably distinct from both the '221 and the '172 patents and is supported in the specification on page 8, lines 31-34; page 10, lines 1-6; and page 11, lines 1-11.

Claim 1 of the '221 patent is directed to a human waste collecting bag formed of two film blanks with joined edges and having an elongated discharge portion with a discharge opening that is closed by folding. A *resilient* seal member having greater rigidity than the film blanks is attached to the discharge portion near the discharge opening to engage a contact surface on the other film blank when the discharge portion is folded. As described at column 3, lines 47-57, and column 4, lines 19-28, the "resilient seal member" is defined as a *compressible* material, i.e., one that is supple in the thickness direction. The sealing of the collecting bag is effected through the compression of such seal member which works "in combination with the squeezing effect from the film material" to seal off the discharge opening and prevent leakage (column 4, lines 22-24).

Claim 1 of the '172 patent, which patent is a continuation of the '221 patent, provides further detail on the human waste collecting bag of claim 1 of the '221 patent. Specifically, claim 1 of the '172 patent affirmatively states

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that the resilient seal member includes a *resiliently compressible* sealing plate, at least part of which is compressed against a corresponding contact surface to effect liquid-sealed closure of the discharge opening.

Both claim 1 of the '221 patent and claim 1 of the '172 patent set forth a "resilient seal member" as used to close the discharge opening. Claims 1 and 10 of the present invention specify the inclusion of first and second plate members that are *made of a relatively stiff material lacking in suppleness in the thickness direction*. This use of a material having fundamentally different physical characteristics from that of the '221 and '172 patents renders claims 1 and 10 patentably distinct thereover.

Claims 2-9 and 11-20 are also in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein. With particular respect to the new claims, the partially opened state of the discharge opening due to the arc-shaped configuration of at least one of the relatively stiff plate members, which in effect act as flat springs, places new claims 19 and 20 in condition for allowance. Support for claims 19 and 20 is provided in the specification on page 10, lines 27-35.

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With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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